

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JOHN MICHAEL TRIBLE,

Plaintiff,

vs.

BANK OF AMERICA, N.A. et al.,

Defendants.

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3:11-cv-00441-RCJ-WGC

ORDER

This is a standard foreclosure case involving one property. The Complaint filed in state court lists nine causes of action: (1) Unfair Debt Collection Practices Under Nevada Revised Statutes (“NRS”) section 649.370; (2) Unfair and Deceptive Trade Practices Under NRS sections 41.600 and 598.0923; (3) Unfair Lending Practices Under NRS section 598D.100; (4) Breach of the Covenant of Good Faith and Fair Dealing; (5) Violation of NRS section 107.080; (6) Quiet Title; (7) Fraud; (8) Slander of Title; and (9) Abuse of Process. The case is not part of Case No. 2:09-md-02119-JAT in the District of Arizona and does not appear eligible for transfer. Defendants have moved to dismiss. For the reasons given herein, the Court grants the motion.

I. THE PROPERTY

John Michael and Irene Sanchez Tribble gave lender Primerit Bank, FSB (“Primerit”) a \$129,000 promissory note to purchase real property at 21835 Adobe Rd., Reno, NV 89511 (the “Property”). (See Deed of Trust (“DOT”), Apr. 3, 1996, ECF No. 9-10). Home Trustee, Inc. was

1 the trustee, and MERS was not party to the DOT. (*See id.*). In 1999, Plaintiffs borrowed \$17,000
2 against the property; U.S. Bank National Association (“USBNA”) was the lender, and U.S. Bank
3 Trust Co. (“USBTC”) was the trustee. (*See* 1999 Deed of Trust (“1999 DOT”), Oct. 13, 1999,
4 ECF No. 9-11). Although it is not clear whether it was a refinance that extinguished the DOT or
5 another cash loan secured against the Property, Plaintiffs borrowed \$129,000 against the
6 Property in 2001; First Nationwide Mortgage Corp., d.b.a. Cal Fed Lending (“FNMC”) was the
7 lender, and Lawrence P. Washington was the trustee. (*See* 2001 Deed of Trust (“2001 DOT”),
8 Dec. 12, 2001, ECF No. 9-12). In 2002, Irene Sanchez Tribble quitclaimed her interest in the
9 Property to John Michael Tribble for \$10. (*See* Quitclaim Deed, Sept. 27, 2002, ECF No. 9-13, at
10 2). As of that date, the Property was valued at \$189,000. (*See* Decl. of Value, Sept. 27, 2002,
11 ECF No. 9-13, at 4). John Michael Tribble then borrowed \$51,993.81 against the Property in
12 2003; Bank of America, N.A. (“BOA”) was the lender, and PRLAP, Inc. was the trustee. (*See*
13 2003 Deed of Trust (“2003 DOT”), Oct. 16, 2003, ECF No. 9-14).

14 John Michael Tribble refinanced the Property in 2005 for \$184,903; BOA was the lender,
15 and PRLAP was the trustee. (*See* 2005 Deed of Trust (“2005 DOT”), Nov. 9, 2005, ECF No. 9-
16 15). On the same date, he took out a home equity line of credit (“HELOC”) against the Property
17 for \$130,000. (*See* HELOC DOT, Nov. 9, 2005, ECF No. 9-16). BOA substituted Recontrust as
18 trustee on the 2005 DOT. (*See* Substitution, Feb. 1, 2010, ECF No. 9-17). Recontrust filed the
19 notice of default (“NOD”) based on a default on the 2005 DOT of unspecified amount as of May
20 1, 2009. (*See* NOD, Feb. 3, 2010, ECF No. 9-19). Recontrust filed a second NOD based on a
21 default on the 2005 DOT of unspecified amount as of May 1, 2009. (*See* NOD, July 19, 2010,
22 ECF No. 9-18). The foreclosure was statutorily proper, as Recontrust was the properly
23 substituted trustee on the 2005 DOT. *See* Nev. Rev. Stat. § 107.080(2)(c). Recontrust noticed a
24 trustee’s sale for April 26, 2011. (*See* Notice of Trustee’s Sale (“NOS”), Apr. 5, 2011, ECF No.
25 9-21). The Property is not eligible for the state Foreclosure Mediation Program (“FMP”). (*See*

1 Certificate, Oct. 19, 2010, ECF No. 9-20).

2 **II. ANALYSIS**

3 The foreclosure was statutorily proper because the properly substituted trustee on the
4 2005 DOT filed the NOD, and Plaintiff does not appear to deny default. The remaining claims
5 fail for reasons given in substantively similar cases.

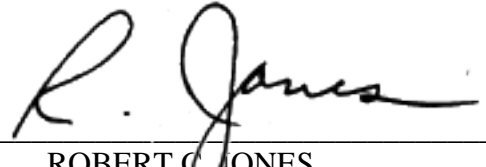
6 **CONCLUSION**

7 IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 9) is GRANTED.

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9 IT IS FURTHER ORDERED that the Clerk shall enter judgment and close the case.

10 IT IS SO ORDERED.

11 Dated this 27th day of October, 2011.

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15 ROBERT C. JONES
16 United States District Judge
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